STATE OF UTAH

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RIGHTS

DEE C. HANSEN
STATE ENGINEER

JOHN BENE
DEPUTY

GERALD W. STOKER
AREA ENGINEER

P.O. BOX 506
CEDAR CITY, UTAH 84720
586 4231

October 5, 1978

M E M O R A N D U M

TO: Dee C. Hansen, State Engineer

FROM: Ross N. Miller, Assistant Area Engineer

SUBJECT: Dike Construction in Lydias Canyon, Kane County

On September 26, 1978, I traveled to Glendale, Utah to answer a complaint made by Marion Cox that Ferl Blackburn had constructed some illegal dams and diversion structures in Lydias Canyon north of Glendale.

In talking with Mr. Cox, on site, I found that the major concern was that of a spring from which Mr. Cox and Roger Chamberlain get their culinary water (81-1465).

The spring issues from the north bank of Lydias Canyon Creek. Over the years erosion control has raised the creek bottom inundating the spring. To protect the spring a 4 ft. CMP has been placed over the spring and raised above the level of the creek.

This most recent work by Mr. Blackburn has raised the water level of the pond, near the spring, by an additional 3 to 4 feet. To protect the spring Mr. Blackburn extended the 4 ft. CMP with a 4 ft. steel pipe which was bent out of round and made a tight connection impossible. To keep water from running between the two pipes into the spring, innertubes were placed around the connection. This has not sealed off the connection and surface water is running between the pipes into the spring.

During the day of September 26, 1978, I was able to negotiate a solution between Marion Cox and Ferl Blackburn. Mr. Cox was not concerned with the erosion control structures but wanted Mr. Blackburn to install a matching 4 ft. CMP to protect it from surface water. Mr. Blackburn said that water from the bank had run into the spring prior to his work and that the water was cleaner now than before his erosion control work. However, he did agree to replace the bent pipe with matching pipe in an attempt to seal off the surface water and also to build an earth embankment around the spring area to help isolate it from the ponded water.

I gave him a deadline of October 8, 1978, to complete the work,which he agreed to, and informed Mr. Cox of the agreement. On September 27, 1978, Mr. Blackburn came into the Cedar City Office and, since I was not in, informed Sandra that he was not doing anything illegal. Sandra assumed that he did not intend to complete the necessary work to protect the spring. On October 3, 1978, I called Mr. Blackburn to confront him concerning his visit to our office. After considerable discussion he told me that he did not intend to abide by the agreement or with the time requirement.

The erosion control structures that Mr. Blackburn has built are not impounding much water and could probably be looked at as simple diversion dams and erosion control structures. However, he has impounded some water behind a dike near the spring in question and as discussed earlier the water level has been raised by 3 to 4 feet.

Because Mr. Blackburn has decided not to abide by the agreement reached on Sept. 26th it is my opinion that we should order the dike out which has impounded the additional water around the spring. Since some water has been impounded we would have no problem calling the pond an illegal reservoir since the appropriate application (form 69) was never filed with the State Engineer.

There are some problems with title to the property on which the construction has taken place which I should discuss with you further before an order is issued.

IN VIEW OF THE SUBSEQUENT WORK I WOULD INDICATE TO HIM THAT THE REPAIRS HE HAS NOW MADE TO THE SPRING ARE NOT SATISFACTORY. I WOULD SUGGEST THAT THE SPRING BE PROTECTED WITH A WATCHING 4' CMP COMPLETELY SEALED AND EXTENDING ABOVE THE DIKE. ALSO, THE WATER SUPPLY SHOULD NOT BE SKIMMED OFF THE TOP AS HE IS NOW DOING. A PIPE OUTLET SHOULD BE PLACED BELOW THE SURFACE OF THE WATER OR THE CMP SHOULD BE CAPPED AND PROPERLY VENTED.